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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,814	08/19/2003	Ryan E. Johnson	28459.00	4680

22465 7590 02/25/2004

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P O BOX 51295
KNOXVILLE, TN 37950-1295

EXAMINER

SMITH, KIMBERLY S

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,814

Applicant(s)

JOHNSON, RYAN E.

Examiner

Kimberly S Smith

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because in Figure 1, number “28” does not include a leader extending to the hole. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 1 is objected to because of the following informalities: in line 14, insert terminology such as “is” or “being”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding claim 1, at lines 8-9, it is unclear as to what limitation is claimed by the opening in the open flap being defined by the open flap? Clarification is required

6. Claim 10 recites the limitation "said first magnetic coupling" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 10 has been construed as depending from claim 9.

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7. Claim 11 recites the limitation "said second magnetic coupling" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 11 has been construed as depending from claim 9.
8. Claims 16 and 18 recite the limitation "said solid flap" in lines 1. There is insufficient antecedent basis for these limitations in the claim.
9. Claims 17, 19 and 20 recite the limitation "said open flap" in line 1. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannaday, US Patent 4,989,546 in view of Kemper et al., US Patent 5,216,850 (Kemper).

Cannaday discloses a pet door comprising a frame/means for framing (52) defining a passageway, a solid flap/means for obstructing/first flap/flap (54) having a first and second face, an open flap/means for sealing/second flap/strip (56) wherein the open flap is moved by the solid flap in one direction and restricted when a force is applied in the opposing direction (column 4, lines 3-15). However, Cannaday does not disclose the use of snap fasteners for fastening the open flap. Kemper teaches within the analogous art of housing structures the use of attaching a flap (28) via snaps/means for releasing to a housing structure for easily attaching and detaching

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the flap from the housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use snaps as taught by Kemper to attaché the flap mechanism as disclosed by Cannaday in order to provide for quick attachment and detachment of the flap thereby allowing for ease in assembly and subsequent cleaning of the flap.

Regarding claims 2-5 and 16-18, while Cannaday does not disclose the material properties of the flaps regarding flexibility and rigidity, it would have been obvious to one having ordinary skill in the art at the time the invention was made (as stated in the instant application at [0013]) to use either a rigid or flexible flap since the applicant has not disclosed that the rigidity or lack thereof solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any rigidity of material.

Regarding claims 6 and 19, Cannaday as modified discloses the open flap is substantially U-shaped (best represented at Figure 2).

Regarding claims 7 and 20, Cannaday as modified discloses the claimed invention except for the open flap being substantially O-shaped. It would have been obvious matter of design choice to use an O-shaped flap, since the applicant has not disclosed that the shape of the open flap solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any shape.

Regarding claim 8, Cannaday as modified discloses the solid and open flap cooperating to produce a weather-resisting feature (column 4, lines 15-16).

Regarding claims 10, 11, 23 and 24, Cannaday as modified discloses that the magnets enhance the sealing performance of the door *and* to ensure that the flaps will be maintained in their closed position. Therefore, it would have been obvious to one having ordinary skill in the

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art at the time the invention was made to use a third and fourth magnetic coupling, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Regarding claims 12 and 22, Cannaday as modified discloses the snap fasteners being calibrated to release from the passageway at a particular release force, as it is inherent in the structure of snap fasteners to do so.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Salahor (US 6,446,577), Cleri, Jr. (US 5,651,331), Davlantes (US 4,651,793), Beckett et al. (US 4,022,263), Johnson (US 3,690,299).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S Smith whose telephone number is 703-308-8515.

The examiner can normally be reached on Monday thru Friday 10:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T Jordan can be reached on 703-306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kss



PETER M. POON
SUPERVISORY PATENT EXAMINER

2/24/04